



RE: FW: FW: Kalamazoo Financial Assurance Proposed Changes

Davis, Michael (GP Law) to: Leslie Kirby-Miles

02/11/2010 12:12 PM

Cc: SAMUEL BORRIES, JAMES SARIC, Nicole Wood

Thanks and we will send you the follow-up information on Plainwell and Plainwell #2. We agree we will not invoke dispute resolution regarding stipulated penalties should we fail to have the financial assurance for the SRI/FS in place by March 23, 2010.

-----Original Message-----

From: Kirby-Miles.Leslie@epamail.epa.gov [mailto:Kirby-Miles.Leslie@epamail.epa.gov]
Sent: Thursday, February 11, 2010 1:09 PM
To: Davis, Michael (GP Law)
Cc: borries.samuel@epa.gov; Saric.James@epamail.epa.gov; Wood.Nicole@epamail.epa.gov
Subject: Re: FW: FW: Kalamazoo Financial Assurance Proposed Changes

US EPA RECORDS CENTER REGION 5



Michael,

I have reviewed GP's requests for decreases in financial assurance for both the Plainwell Impoundment removal and the Plainwell #2 dam removal work. See your email below. As you know, both settlement agreements allow you to request a reduction of the financial security provided based on the estimated cost of the work remaining under each agreement. See Plainwell Impoundment AOC, para. 80 and Plainwell #2 AOC, para. 75. Accordingly, please provide EPA with a written proposal for such reductions, including information supporting your cost estimations and we will review your proposals.

GP has also requested a 30 day extension to secure the requisite increased financial security for the Supplemental RI/FS work. Pursuant to the SRI/FS AOC,, you must establish and maintain financial assurance in the amount of \$15 million no later than 3 years from the Effective date of the SRI/FS Agreement or upon EPA's notice of completion of the Plainwell Impoundment removal, whichever is first. See para. 94.b. EPA will grant your request for a 30 day extension. Thus, your \$15 mill financial security is due no later than March 23, 2010. However, please note that if GP fails to comply with the requirements of para. 94.b. by March 23rd, stipulated penalties will accrue. Further, GP agrees to pay any stipulated penalties for failure to timely comply with para. 94.b. without invoking the SRI/FS AOC's dispute resolution provisions. If you have any questions, please contact me to discuss.

Thank you,

Leslie A. Kirby-Miles
Associate Regional Counsel
Region 5, Office of Regional Counsel
U.S. Environmental Protection Agency
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604
Phone (312) 353-9443
Fax (312) 582-5195

From: Leslie Kirby-Miles/R5/USEPA/US

To: "Davis, Michael (GP Law)" <JMDAVIS@GAPAC.com>
Date: 02/09/2010 11:27 AM
Subject: Re: FW: FW: Kalamazoo Financial Assurance Proposed Changes

Hi Michael,
I rec'd your requests. Can I get back to you tomorrow or Thursday? Thanks,

Leslie A. Kirby-Miles
Associate Regional Counsel
Region 5, Office of Regional Counsel
U.S. Environmental Protection Agency
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604
Phone (312) 353-9443
Fax (312) 582-5195

-----"Davis, Michael (GP Law)" <JMDAVIS@GAPAC.com> wrote: -----

To: Leslie Kirby-Miles/R5/USEPA/US@EPA
From: "Davis, Michael (GP Law)" <JMDAVIS@GAPAC.com>
Date: 02/09/2010 10:19AM
Subject: FW: FW: Kalamazoo Financial Assurance Proposed Changes

Our financial assurance group believes, after talking to the banks, that it is going to be difficult to make the changes we had requested in any reasonable time period and for reasonable fees. Apparently the financial markets are still very slow, and costly. Therefore, we will go to increasing the financial assurance for SRI/FS as required by the agreement. However, it would help if we could get a 30 day extension. We apologize for all the back and forth but when we first looked into this it looked promising, but not now. Also, can we reduce the other two financial assurance requirements?

-----Original Message-----

From: Griffith, Garry T.
Sent: Monday, February 08, 2010 4:32 PM
To: Davis, Michael (GP Law); Wall, Teri A.
Cc: Wright, Chad M.
Subject: RE: FW: Kalamazoo Financial Assurance Proposed Changes

Okay.

Then we need to increase the SRI/FS LOC to \$15,000,000 ASAP. Can you get that changed by Feb 21st, or do we need to ask EPA for a time extension?

At this time, we have not received approval from EPA to reduce the Plainwell TCRA LOC to \$210,000 and the Plainwell No. 2 Dam TCRA to \$3,890,000. When we submitted the estimate for the remaining cost for the two TCRA's to EPA on Dec 9, 2009 to ask for the delay to the SRI/FS increase, we did not ask for the reduction. Michael, do you want to contact Leslie to ask for the reduction and to let her know we plan to amend the SRI/FS FA amount to \$15MM, or would you like me to?